

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: BRYAN PAZDZIERZ,

Debtor,

Case Number 11-10016
Bankr. Number 10-04116
Honorable David M. Lawson

/

FIRST AMERICAN TITLE INSURANCE
COMPANY,

Appellant,

v.

BRYAN PAZDZIERZ,

Appellee.

/

ORDER DISMISSING ORDER TO SHOW CAUSE

The appellant filed a notice of appeal from the bankruptcy court on January 3, 2011, and subsequently filed a 25-page brief and a 12-page reply brief. On May 5, 2011, the Court entered an order for the appellant to show cause why its briefs should not be stricken for their failure to comply with E.D. Mich. LR 7.1. The appellant timely filed a response to the show cause, asserting that it submitted its briefs under belief that E.D. Mich. LR 7.1 applied only to “Motion Practice,” and that Federal Rule of Bankruptcy Procedure 8010 therefore applied to its bankruptcy appeal. Rule 8010 governs appeals to district courts or bankruptcy appellate panels, and states that “[u]nless the district court or the bankruptcy appellate panel by local rule or order otherwise provides, principal briefs shall not exceed 50 pages, and reply briefs shall not exceed 25 pages” Fed. R. Bankr. P. 8010(c). The appellants briefs are in compliance with the Rule 8010 page limitations.

The Eastern District of Michigan local rules

apply in civil and criminal actions. Special rules governing . . . bankruptcy cases [may be found] at LR 83.50 . . . The Local Rules of the Bankruptcy Court for the Eastern District of Michigan govern practice in the bankruptcy court. In the absence of a specific provision in one of these special rules, the general provisions apply.

E.D. Mich. LR 1.1(c). Local Rule 83.50 is silent as to the length of briefs on appeal, as are the Local Rules of Bankruptcy Procedure. Local Rule 7.1(d)(3)(A)-(B) provides that “[t]he text of a brief supporting a motion or response, including footnotes and signatures, may not exceed 20 pages . . . [and] [t]he text of a reply brief, including footnotes and signatures, may not exceed 5 pages.” The custom in this district has been to construe the “general provisions” of Local Rule 7.1 to apply to briefs on bankruptcy appeals, but the Court concedes that a careful reading of the texts of the rules cited above does not clearly mandate such a conclusion.

The Court concludes, therefore, that the appellant’s brief does not clearly violate the applicable local rules governing page limitations, since the question whether the page limitations in LR 7.1(d)(3)(A)-(B) apply to briefs filed in bankruptcy appeals to the district court is not answered by the unambiguous text of the local rules. The Court may initiate procedures to modify the local rules to provide clarification, and it may regulate otherwise the length of briefs in its scheduling order. However, it has done neither in this case.

The Court is satisfied with the appellant’s response to the show cause order and concludes no violation of the local rules was intended.

Accordingly it is **ORDERED** that the Order to Show Cause dated May 3, 2011 is **DISMISSED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: May 5, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 5, 2011.

s/Deborah R. Tofil _____
DEBORAH R. TOFIL